IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CONTEMPT PETITION NO.332 OF 2005
IN
WRIT PETITION NO.8518 OF 2003

Bharti Tele-Ventures Ltd. ...Petitioner

vs.

Pune Municipal Corporation & Ors. ...Respondents

Mr.S.Srivastav i/b Mr.D.H.Law Associates for the Petitioner
Mr.V.G.Mujumdar for the Respondent No.2.

CORAM: A.S.OKA,J.
DATE : MARCH 30,2007.

P.C.:

1. Heard learned Counsel for the Petitioner. He submits that the first Respondent-Corproation has committed a breach of directions contained in paragraph 15 of the Order dated 13th December 2004 passed by the Division Bench. Paragraph 15 of the said order of the Division Bench reads thus :

"15. Respondent No.3 Corporation shall be at liberty to issue show cause notices to the Petitioners in respect of the allegedly unauthorised structures. In pursuance thereof, the Petitioners shall be entitled to raise all such contentions as may be advised and apply for regularisation of its structures under clause 6.6.2.2 The Corporation shall ensure that the premium, if any, shall be charged case by case depending on whether the structure violates any of the Development Control

Rules."

2. It is alleged in the Contempt Petition that on 15th November 2005, a team of 10 Officials of the first Respondent-Corporation visited the three of cellular sites of the Petitioner and demolished the cellular towers erected by the Petitioner. It is alleged that no notice was given by the first Respondent before taking action of demolition.

3. A reply has been filed to the Contempt Petition by the first Respondent-Corproation to which copies of various notices issued to the Petitioner in February and March 2005 under section 260 of the Bombay Provincial Municipal Corporations Act, 1949 have been annexed.

4. The learned Counsel for the Petitioner did not dispute that the said notices were received by the Petitioner. His contention is that on 21st June 2005, the Petitioner wrote a letter to the first Respondent calling upon the first Respondent to give particulars of the breaches committed by the Petitioner.

5. Thus, it is crystal clear that no reply was submitted by the Petitioner within the time of 15 days provided in the notices issued by the first Respondent-Corporation. Another contention raised before me is that all particulars of alleged

breach ought to have been incorporated in the notices. The notices clearly recite that unauthorised construction of towers has been carried out by the Petitioner without obtaining permission in accordance with the law and in particular there is a contravention the provisions of Chapter XII of the Schedule to the said Act of 1949. Clause 15 of the order passed by the Division Bench grants liberty to the first Respondent-Corporation to issue show cause notices to the Petitioner in respect of the alleged unauthorised constructions. The same has been done by the first Respondent. The petitioner did not reply to the said notices within the time stipulated therein and therefore, action of demolition has been taken.

6. Thus, it cannot be said that there is any breach on the part of the first Respondent of the order passed by the Division Bench, much less a deliberate or a wilful breach. If action of demolition is contrary to law, it is always open for the Petitioner to take out appropriate proceedings in accordance with law in that behalf.

5. No case is made out for taking action under the Contempt of Courts Act,1971. Notice issued by this court is accordingly discharged. Petition is disposed of.

JUDGE